

FIRST REGULAR SESSION

SENATE BILL NO. 251

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time January 10, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1095S.011

AN ACT

To repeal section 407.1095, RSMo, and to enact in lieu thereof two new sections relating to political telephone calls, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 407.1095, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 407.1095 and 407.1106, to read
3 as follows:

407.1095. As used in sections 407.1095 to 407.1110, the following words
2 and phrases mean:

3 (1) **"Automated political solicitation", any prerecorded or**
4 **synthesized voice message to promote, advertise, or campaign for or**
5 **against a political candidate or political issue;**

6 (2) **"Caller identification service", a type of telephone service which**
7 **permits telephone subscribers to see the telephone number of incoming telephone**
8 **calls;**

9 [(2)] (3) **"Residential subscriber", a person who has subscribed to**
10 **residential telephone service from a local exchange company or the other persons**
11 **living or residing with such person;**

12 (4) **"Political solicitation", any voice communication over a**
13 **telephone line from a live operator for the purpose of promoting,**
14 **advertising, or campaigning for or against a political candidate or**
15 **political issue;**

16 [(3)] (5) **"Telephone solicitation", any voice communication over a**
17 **telephone line from a live operator, through the use of ADAD equipment or by**
18 **other means for the purpose of encouraging the purchase or rental of, or**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 investment in, property, goods or services, but does not include communications:

20 (a) To any residential subscriber with that subscriber's prior express
21 invitation or permission;

22 (b) By or on behalf of any person or entity with whom a residential
23 subscriber has had a business contact within the past one hundred eighty days
24 or a current business or personal relationship;

25 (c) By or on behalf of an entity organized pursuant to Chapter 501(c)(3)
26 of the United States Internal Revenue Code, while such entity is engaged in
27 fund-raising to support the charitable purpose for which the entity was
28 established provided that a bona fide member of such exempt organization makes
29 the voice communication;

30 (d) By or on behalf of any entity over which a federal agency has
31 regulatory authority to the extent that:

32 a. Subject to such authority, the entity is required to maintain a license,
33 permit or certificate to sell or provide the merchandise being offered through
34 telemarketing; and

35 b. The entity is required by law or rule to develop and maintain a no-call
36 list;

37 (e) By a natural person responding to a referral, or working from his or
38 her primary residence, or a person licensed by the state of Missouri to carry out
39 a trade, occupation or profession who is setting or attempting to set an
40 appointment for actions relating to that licensed trade, occupation or profession
41 within the state or counties contiguous to the state.

**407.1106. 1. No person or entity shall make or cause to be made
2 an automated political solicitation to any residential subscriber except
3 when such residential subscriber has given prior express invitation or
4 permission.**

**5 2. No person or entity shall make or cause to be made a political
6 solicitation to any residential subscriber between the hours of nine
7 o'clock p.m. and seven o'clock a.m. unless such residential subscriber
8 has given prior express invitation or permission.**

**9 3. The attorney general may initiate proceedings relating to a
10 knowing violation or threatened knowing violation of this
11 section. Such proceedings may include, without limitation, an
12 injunction, a civil penalty up to a maximum of five thousand dollars for
13 each violation and additional relief in any court of competent**

14 jurisdiction. The attorney general may issue investigative demands,
15 issue subpoenas, administer oaths and conduct hearings in the course
16 of investigating a violation of this section.

17 4. Any person who has received more than one telephone call
18 within any twelve-month period by or on behalf of the same person or
19 entity in violation of this section may either:

20 (1) Bring an action to enjoin such violation;

21 (2) Bring an action to recover for actual monetary loss from such
22 knowing violation or to receive up to five thousand dollars in damages
23 for each such knowing violation, whichever is greater; or

24 (3) Bring both such actions.

25 5. No action or proceeding may be brought under this section:

26 (1) More than two years after the person bringing the action
27 knew or should have known of the occurrence of the alleged violation;
28 or

29 (2) More than two years after the termination of any proceeding
30 or action arising out of the same violation or violations by the state of
31 Missouri, whichever is later.

32 6. A court of this state may exercise personal jurisdiction over
33 any nonresident or his or her executor or administrator as to an action
34 or proceeding authorized by this section in the manner otherwise
35 provided by law.

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